

ORIGINAL

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**FILED**

DISTRICT COURT OF GUAM

AUG - 3 2006

MARY L.M. MORAN  
CLERK OF COURT

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF GUAM

Criminal (FB)

06-00028

UNITED STATES OF AMERICA, )

MAGISTRATE CASE NO. \_\_\_\_\_

Plaintiff, )

COMPLAINT

vs. )

VISA WAIVER FRAUD

[18 U.S.C. § 1546(a)]

JUN PYO KIM, )

Defendant. )

THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND BELIEF THAT:

On about August 2, 2006, in the District of Guam and elsewhere, the defendant herein, JUN PYO KIM, knowingly presented his application for a Korean Visa Waiver, knowing at the time that it contained false statements material to the immigration laws to wit: he denied that he had ever been convicted of a crime and he denied that he had ever been deported from the United States, both statements he then knew to be false, in violation of Title 18, United States Code, Section 1546(a).

1 COMPLAINANT FURTHER STATES:

2 My name is Byron Farley, and I am a Customs Enforcement Officer, formerly a Senior  
3 Immigration Inspector with the U.S. Immigration & Naturalization Service, now with U.S.  
4 Customs and Border Protection (CBP), a component of the Department of Homeland Security. I  
5 have been employed by these two agencies for over 17 years.  
6

7 My duties include investigation of violations of Titles 8 and 18 of the United States Code  
8 as they apply to violations of U.S. immigration laws. The information contained in this affidavit  
9 is based upon witness interviews, the collection of evidence and document analysis conducted by  
10 the affiant. Based upon my knowledge, training, and experience with the Immigration and  
11 Nationality Act, I hereby make the following affidavit:  
12

13 1. On or about August 2, 2006 Jun Pyo KIM arrived at the Guam International Airport  
14 and applied for admission into the United States under the Guam Visa Waiver Program before a  
15 United States Customs and Border Protection Officer. In making his application he presented a  
16 Korean passport number MP0069470, form I-94 Arrival and Departure Record, form I-736  
17 Guam Visa Waiver Information, and round trip tickets from Seoul, Korea.  
18

19 2. Mr. KIM admitted that the form I-736 was completed and signed by his own hand.  
20 Question number 8 of the form asks if the passenger has ever applied for and received a U.S.  
21 immigrant or non-immigrant visa, to which Mr. KIM indicated that he had. The question further  
22 asks if your U.S. visa was ever canceled, to which Mr. Kim replied "NO". Question number 9 of  
23 the form lists a series of conditions that make a passenger inadmissible to the United States, and  
24 asks if any of these conditions apply to the applicant. Two of the conditions listed in this  
25 question are 1) Arrested, convicted for any offense or crime even though subject of a pardon,  
26 amnesty, or other such legal action; and 2) Deported from the United States within the last five  
27  
28


1 years. Mr. KIM responded that none of these conditions applied to him.

2 3. A record check of the computer database indicates that an Immigration Judge ordered  
3 Mr. KIM removed to South Korea on August 8, 2002. The computer database also indicates that  
4 Mr. KIM pleaded guilty in Dallas, TX on January 22, 2003 to a charge by the FBI for THEFT  
5 FROM INTERSTATE SHIPMENT, and was sentenced to 8 months imprisonment and  
6 restitution in the amount of \$107,369.00.  
7

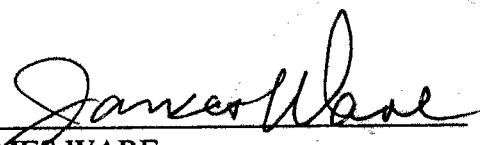
8 4. I interviewed Mr. KIM on August 2, 2006 after advising him of his rights, which he  
9 waived. During the interview he admitted that he knew he was inadmissible to the U.S. because  
10 of his prior deportation and his criminal record. He also acknowledged that he had not received  
11 advance permission from the Attorney General in order to reenter the United States.  
12

13 5. Based on the foregoing, I have probable cause to believe that defendant Jun Pyo KIM  
14 committed the offense of Fraud and Misuse of Visas, Permits and Other Documents, in violation  
15 of 18 U.S.C. 1546(a).  
16

17 DATED THIS 3 day of August, 2006.

18   
19 BYRON C. FARLEY  
20 Customs Enforcement Officer  
21 Bureau of Customs and Border Protection  
22 Department of Homeland Security

23 SUBSCRIBED AND SWORN to before me this 3 day of August, 2006.

24   
25 JAMES WARE  
26 District Judge  
27 District Court of Guam  
28